

ADOT JPA File No.: 05-090  
AG Contract No.: KR05-1208TRN  
Project No.: HRF-PPN-0-822  
Project: Roadway Improvements  
Section: Hogwash Wash Crossing  
TRACS No.: HF122 01D / HF122 01C  
Budget Source Item No.: HURF

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
PINAL COUNTY

THIS AGREEMENT is entered into this date February 3, 2006, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and PINAL COUNTY, acting by and through its CHAIRPERSON and BOARD OF SUPERVISORS (the "County").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-334 and § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251 and § 11-951 et seq, to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. The State has approved the exchange of Highway User Revenue Funds (HURF) pursuant to the amounts and schedule shown in column D of the table below for the roadway design and construction of Hogwash Wash Crossing in Pinal County. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG), Federal Apportionment and corresponding Obligation Authority as shown in column B and C in the table below. All such transactions to be made in accordance with the schedule shown in column A.

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

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NO. 27993  
Filed 2-3-06  
Date 2-3-06  
By: [Signature]  
Secretary of State  
[Signature]  
[Signature]

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
Federal Fiscal Year to be Processed	STP Apportionment to be Charged to CAAG	STP Obligation Authority to be Charged to CAAG	HURF Funds to be Transferred to Pinal County
<b><u>Design</u></b>			
FFY 2006	\$ 56,926.48	\$ 58,750.00	\$ 52,875.00
<b><u>Construction</u></b>			
FFY 2006	<u>\$322,311.89</u>	<u>\$332,916.67</u>	<u>\$299,625.00</u>
<b><i>Total Design &amp; Construction</i></b>	<b><i>\$379,238.37</i></b>	<b><i>\$391,666.67</i></b>	<b><i>\$352,500.00</i></b>

## **II. SCOPE OF WORK**

### 1. The County shall:

a. Provide design plans, specifications and other such documents and services required for design and construction bidding and construction of the roadway reconstruction project at Hogwash Wash Crossing in Pinal County.

b. Be responsible for any contractor claims required for design of the project for extra compensation due to delays for whatever reason attributable to the County.

c. Advertise for bids and award one or more construction contracts for the Project. Administer contracts for the project and make all payments to the contractor(s). Be responsible for any contractor claims required to complete the project for extra compensation due to delays or whatever reason attributable to the County and comply with all applicable State Laws, Rules and Regulations.

d. Invoice the State for the Design cost and 30% of the construction upon award of the construction project. Total payment by the State to the County shall not exceed the amounts shown in column D above for the Federal Fiscal Year in which the billing is made.

e. Invoice the State for 30% of the cost of construction when the project reaches the 30% completion stage. Total payments by the State to the County shall not exceed the amounts shown in column D above for the Federal Fiscal Year in which the billing is made, plus any carryover amounts not previously paid in prior years.

f. Invoice the State for 30% of the cost of construction when the project reaches the 60% completion stage. Total payments by the State to the County shall not exceed the amounts shown in column D above for the Federal Fiscal Year in which the billing is made, plus any carryover amounts not previously paid in prior years.

g. Upon satisfactory completion of construction, approve and accept the project on behalf of the County, provide for the maintenance, at its own expense. Provide the State with a letter documenting the notice of the approval and acceptance of the project.

h. Invoice the State for 10% of the cost of construction when the project has been satisfactorily completed and accepted by the County. Total payments by the State to the County shall not exceed the amounts shown in column D above for the Federal Fiscal Year in which the billing is made, plus any carryover amounts not previously paid in prior years.

2. The State shall:

- a. Withhold from the CAAG Federal Funds and the Obligation Authority of Federal Funds in an amount of \$58,750.00 for roadway **design** of Hogwash Wash Crossing in Pinal County.
- b. Withhold from CAAG Federal Funds and the Obligation Authority of Federal Funds in an amount of \$322,916.67 for roadway **construction** of Hogwash Wash Crossing in Pinal County.
- c. Within thirty-days (30) after receipt of an invoice and a letter confirming the **design** project and has been completed, reimburse the County for the design costs.
- d. Within thirty-days (30) after receipt and approval of construction invoices at the thirty and sixty percent construction completion stages, advance the County HURF funds in the amount of 30% at each invoiced stage for construction and 100% for Design.
- e. Within 30 days after receipt and approval of construction invoices, advance the County HURF Funds or the remaining 10% of \$299,625.00 in 2007 for the final roadway improvements of Hogwash Wash Crossing in Pinal County.

### **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion of said project, except any provisions for maintenance shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon 30 days written notice to the other party. It is understood and agreed that in the event the County cancels this Agreement, the State shall in no way be obligated to maintain said project.

2. The State assumes no financial obligation or liability under this Agreement, or for any resulting construction Project. The County assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The County shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The County shall also require its contractors to name the State and ADOT as an additional indemnitee in the County's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to advancing Highway User Revenue Funds; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the County and that to the extent permitted by law the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

7. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, Arizona 85007  
(602) 712-7525  
(602) 712-7424 Fax

Pinal County  
Attn: County Manager  
PO Box 827  
Florence, Arizona 85232  
(520) 866-6511 Fax

With a copy to:  
Pinal County  
Attn: Doug Hansen  
Public Works Department  
PO Box 727  
Florence, Arizona 85232  
(520) 866-6511 Fax

8. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

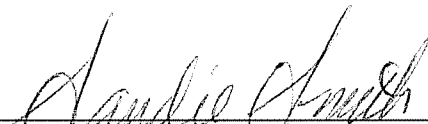
9. Non-Availability of Funds: Every payment obligation of the State and County under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State and County at the end of the period for which the funds are available. No liability shall accrue to the State or the County in the event this provision is exercised as a result of termination under this paragraph.

10. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

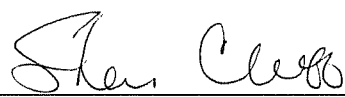
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**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

**PINAL COUNTY**

By   
SANDIE SMITH, Chairman  
Pinal County Board of Supervisors

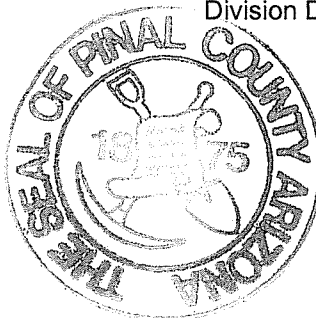
ATTEST:

By   
SHERI CLUFF, Deputy Clerk  
Pinal County Board of Supervisors

**STATE OF ARIZONA**

Department of Transportation

By   
DALE BUSKIRK  
Division Director

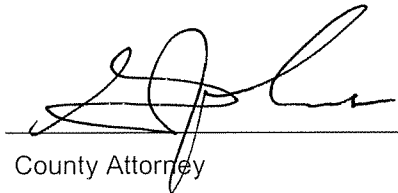


ATTORNEY APPROVAL FORM FOR PINAL COUNTY

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 23<sup>rd</sup> day of February, 2005.

  
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County Attorney

*Deputy*

When recorded, return to:  
Clerk of the Board  
Pinal County Board of Supervisors  
P. O. Box 827  
Florence, AZ 85232

**RESOLUTION NO. 010406-JPA 05-090**

**RESOLUTION OF THE PINAL COUNTY BOARD OF SUPERVISORS  
AUTHORIZING PINAL COUNTY TO ENTER INTO INTERGOVERNMENTAL  
AGREEMENT JPA 05-090 WITH THE STATE OF ARIZONA, ACTING BY AND  
THROUGH ITS DEPARTMENT OF TRANSPORTATION, FOR THE PURPOSE  
OF DEFINING RESPONSIBILITIES FOR THE EXCHANGE OF HIGHWAY  
USER REVENUE FUNDS FOR THE DESIGN AND CONSTRUCTION OF  
ROADWAY IMPROVEMENTS AT HOGWASH WASH CROSSING ON  
MOUNTAIN VIEW ROAD.**

WHEREAS, Pinal County is empowered by A.R.S. § 11-251 and § 11-951 et seq. to enter into Intergovernmental Agreement JPA 05-090; and,

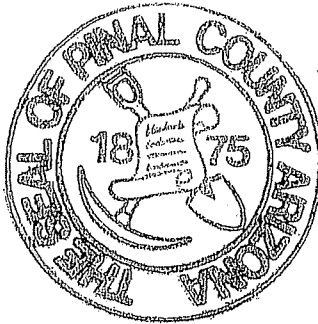
WHEREAS, the State of Arizona has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$52,875.00 in Federal Fiscal Year 2006 to the County for design of roadway improvements at Hogwash Wash Crossing on Mountain View Road. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) Federal funds and the obligation authority for Federal funds in the amount of \$58,750.00 in Federal Fiscal Year 2006; and,

WHEREAS, the State of Arizona has approved the exchange of Highway User Revenue Funds (HURF) in the amount of \$299,625.00 for Federal Fiscal Year 2006 to the County for construction of roadway improvements at Hogwash Wash Crossing on Mountain View Road. Such funds shall be repaid to the State by withholding from the Central Arizona Association of Governments (CAAG) Federal funds and the obligation authority for Federal funds in the amount of \$332,916.67 in fiscal year 2006; and,

WHEREAS, it is in the best interests of the welfare and safety of the citizens of Pinal County to enter into Intergovernmental Agreement JPA 05-090.

THEREFORE, BE IT RESOLVED: Pinal County is hereby authorized to enter into Intergovernmental Agreement JPA 05-090 with the State of Arizona, by and through its Department of Transportation, for the purpose of defining responsibilities for the exchange of Highway User Revenue Funds for the design and construction of roadway improvements at Hogwash Wash Crossing on Mountain View Road.


PASSED AND ADOPTED this 4<sup>th</sup> day of Jan., 2006,  
by the PINAL COUNTY BOARD OF SUPERVISORS.



Andie Smith  
Chairman of the Board

ATTEST:

Sheri Cleff  
Deputy Clerk of the Board

<p>TERRY GODDARD Attorney General</p>	<p> <b>OFFICE OF THE ATTORNEY GENERAL</b> STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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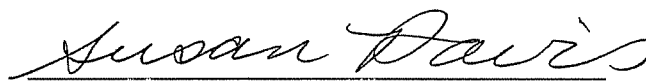
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR05-1208TRN (**JPA 05-090**), an Agreement between public agencies, i.e., The State of Arizona and Pinal County, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: January 24, 2006

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:mjf:943948  
Attachment